

# Board of Contract Appeals

General Services Administration  
Washington, D.C. 20405

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March 18, 2005

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GSBCA 16593-RELO

In the Matter of PAUL GILL

Paul Gill, FPO Area Pacific, Claimant.

Rebecca Lott, Comptroller, United States Naval Air Pacific Repair Activity, FPO Area Pacific, appearing for Department of the Navy.

**BORWICK**, Board Judge.

In this matter claimant, Paul Gill, contests the Department of the Navy's (agency's) refusal to reimburse claimant for \$3147.20 of charges he incurred for non-temporary storage of his household goods (HHG) and \$432 for insurance charged by the commercial storage facility. Claimant incurred the charges in connection with his permanent change of station (PCS) from a domestic duty station to a duty station outside the continental United States (OCONUS). We conclude that the agency violated the Federal Travel Regulation (FTR) and the Joint Travel Regulations (JTR) in effect when claimant reported for duty by refusing to provide non-temporary storage of his HHG, either in Government-owned facilities or commercially. Under those circumstances, we grant the claim in substantial part and allow reimbursement of the \$3147.20, since the agency acknowledges that the amount does not exceed what it would have cost the Government to procure non-temporary commercial storage during the allowable storage period. We deny the insurance portion of the claim, since neither the FTR nor JTR allowed reimbursement of insurance charges for non-temporary storage of HHG.

## Background

On October 10, 2001, the agency sent claimant on his first PCS from the Naval Depot, Jacksonville, Florida, to the Naval Air Pacific Repair Facility, Okinawa, for a two-year tour of duty. Claimant could not transport his HHG to his overseas location. The agency, therefore, among other benefits, authorized claimant non-temporary storage of HHG during his time abroad.

Claimant was advised that he could contract for non-temporary storage himself and seek reimbursement later. Claimant says that he obtained self-storage of his HHG, at rates lower than the best commercial contract carrier rates available to the Government at the time

claimant entered into the contract. Claimant served for three years in his overseas assignment and then received a two-year extension of his tour.

Claimant moved his HHG into a self-storage facility in Chesapeake, Virginia, where they remained from October 25, 2001, through January 1, 2004, at a total cost of \$3147.20. After the agency refused claimant's request for reimbursement of his self-storage costs, the agency moved claimant's HHG into non-temporary storage contracted for by the agency.

The agency's command states that funds are available for reimbursement and agrees with claimant that the cost of claimant's self-storage was less than it would have been had storage been contracted for by the Government. Nevertheless, the agency's finance office believes that there is no authority to reimburse claimant, because under the JTR, when non-temporary storage is authorized, the storage must be either in Government-owned facilities or contracted for by the Government, not the employee.

### Discussion

The agency correctly observes that, when authorized, non-temporary storage may only be provided in Government-owned storage facilities or in commercial storage that is obtained by the Government. The FTR in effect at the time claimant reported for duty provided that an employee may be allowed non-temporary storage of HHG upon his or her OCONUS relocation when the employee was unable to use, or not authorized to move, the HHG, if the storage was authorized in the public interest, and if the estimated cost of the storage would have been less than the cost of the round-trip transportation of the HHG. 41 CFR 302-9.2 (2001). Since the agency had authorized claimant's non-temporary storage of HHG, the agency had made those determinations and they are not at issue.

The FTR provided that the HHG may be stored either in available Government-owned space or in suitable commercial or privately owned space if Government-owned space was not available or if commercial or privately owned space obtained by the Government was more economical or suitable because of location, difference of transportation costs, or other reasons. 41 CFR 302-9.2. The language of the FTR suggested that it was the Government that arranged, stored, and paid for the non-temporary storage of an employee's HHG, either in Government facilities or suitable commercial or privately owned space.

The implementing JTR, in effect at the time of claimant's transfer, was to the same effect. Under the JTR, the transportation office storing the HHG forwarded the completed HHG services order along with any amendments. to the employee and the employee's OCONUS personnel office. The gaining OCONUS personnel office established an employee non-temporary storage HHG file that was separate from an employee's personnel records and that served as a suspense file for any funding and any subsequent HHG shipment. JTR C8815-1, -2. Allowable costs included those necessary for packing, crating, unpacking, uncrating, transportation to and from the place of storage, charges while in storage, and other necessary charges directly related to the storage. 41 CFR 302-9.2(c)(2).<sup>1</sup>

The agency's finance office, relying on *Masood Badizadegan*, GSBICA 14393-RELO,

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<sup>1</sup> The current versions of the FTR and JTR are substantively the same. See 41 CFR 302-8.103, -8.104, -8.200 (2003); JTR C5195 (2004).

98-2 BCA ¶ 29,789, believes that because claimant chose to use self-storage, albeit relying on erroneous advice, the charges are not reimbursable. This case, however, involves more than an agency official giving erroneous advice that leads an employee to an unfortunate--and non-reimbursable--choice as regards relocation benefits. This case primarily involves the agency's failure to act.

Having authorized claimant's non-temporary storage of HHG, the agency was required by the FTR and JTR to provide the storage, either in available Government-owned facilities or in storage procured directly by the agency. The agency's transportation office deprived claimant of this benefit to which he was entitled. In these limited circumstances, we have allowed reimbursement of claimant's out of pocket expenses, as long as those expenses do not exceed what it would have cost the Government to procure non-temporary storage commercially during the allowable storage period. *See Kenneth W. Trotman*, GSBCA 15250-RELO, 00-2 BCA ¶ 30,959; *Alex L. Rowe*, GSBCA 14479-RELO, 98-2 BCA ¶ 29,919. Similarly, when an agency has denied an employee the benefit of moving HHG by Government Bill of Lading (GBL) because the agency was unable to procure a mover within the time constraints of the move, we have allowed reimbursement of the employee's actual expenses. *See Michael Vissichelli*, GSBCA 15974-RELO, 03-2 BCA ¶ 32,311.

As for the insurance charge of \$432, we do not regard that cost as reimbursable because there was no showing, much less an agency determination, that the charge was directly related to the storage of HHG, as was authorized by the FTR. On its face, the insurance charge seems to be a cost for the protection of the HHG. The Board, therefore, grants the claim in part.

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ANTHONY S. BORWICK  
Board Judge